

**Response of City of London Law Society, IP sub-committee ("CLLS")**

**to Intellectual Property Office Review of the Copyright Tribunal ("CT")**

The City of London Law Society ("CLLS") acts as the local law society of the City of London. It represents the professional interests of City solicitors, who make up 15% of the profession in England and Wales, by commenting on matters of law and practice and by making representations on the issues and challenges facing the profession and their clients. It organises itself into committees, around legal topics. The intellectual property committee is made up of representatives of members' firms who practise solely or mainly in the intellectual property field and who have extensive experience in litigating IP rights and in transactions involving the exploitation of IP rights.

The CLLS has considered the UKIPO review of the CT and, in general terms, supports the recommendations of the authors of the review. In particular, the CLLS is in favour of the appointment of a full time President/Chairman to provide continuity, and of the proposal that early and effective case management powers should be exercised by the Chairman and deputy chairmen to ensure that cases are dealt with quickly, effectively and at a proportionate cost. To this end, the CLLS is in favour of dispensing with lay members, the substitution of the CPR for the CT rules and the giving of clear directions with strict timetables at an early case management conference. The proposal that the CT should take an active part in formulating methodologies for the objectification of the criteria for the conditions of a licensing scheme, tariff or licence, and the suggestion that, when tariffs or licensing schemes are introduced, the reasoning behind their structure should be clearly shown, are also supported by the CLLS. The CLLS notes that the proposals will require proper funding from the Government and hopes that this will occur.

With regard to evidence, however, whilst the CLLS agrees that it would be useful for the chairmen to encourage the parties to direct their evidence to answering specific questions and for the chairmen to exercise their powers to award costs against parties whose evidence has not been directed towards the key issues, the CT should not be prescriptive in the manner in which the parties choose to present their cases. For example, the CLLS feels that the parties should be free to adduce their own expert evidence and to conduct oral cross-examination of witnesses, subject always to being penalised in costs should their evidence or case presentation unnecessarily prolong the proceedings. Again proper case management should be used to ensure that any dispute is dealt with sensibly and proportionately, but not at the expense of compromising quality of justice.

The CLLS supports the recommendation that licensing bodies should have the ability to commence a reference under ss 118 and 125 CDPA 1988 (provided that there are clear rules concerning the ability of third parties to challenge a scheme or tariff after a ruling) and the re-statement of the principle that the CT should be balanced in its approach to the issues between the licensor and the user and have no disposition in favour of one party or the other.

Yours faithfully

**Ian Starr (Chairman, IP Committee)**